

FILED

UNITED STATES COURT OF APPEALS

SEP 13 2013

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FACEBOOK, INC., a Delaware  
corporation,

Plaintiff - Appellee,

v.

STEVEN VACHANI,

Defendant - Appellant.

No. 13-16795

D.C. No. 5:08-cv-05780-LHK  
Northern District of California,  
San Jose

ORDER

A review of the record suggests that this court may lack jurisdiction over the appeal because the district court's August 7, 2013 "order re attorneys fees and costs for renewed deposition" does not appear to be appealable. *See* 28 U.S.C. § 1291; *see also In re San Vicente Med. Partners Ltd.*, 865 F.2d 1128, 1131 (9th Cir. 1989) (order) (magistrate judge order not final or appealable); *Koninklijke Philips Elecs., N.V. v. KXD Tech., Inc.*, 539 F.3d 1039, 1042 (9th Cir. 2008) (order of civil contempt or sanctions against a party to ongoing litigation is generally not immediately appealable); *see, e.g., Cunningham v. Hamilton County*, 527 U.S. 198, 210 (1999) (holding that sanctions orders under Fed. R. Civ. P. 37(a)(4) are not immediately appealable); *Riverhead Savings Bank v. Nat'l Mortg. Equity Corp.*,

893 F.2d 1109, 1113 (9th Cir.1990) (absent certificate under Fed. R. Civ. P. 54(b), a lower court order awarding Rule 11 sanctions against a party generally is not appealable prior to the entry of final judgment).

Within 21 days after the date of this order, appellant shall move for voluntary dismissal of the appeal or show cause why it should not be dismissed for lack of jurisdiction. If appellant elects to show cause, a response may be filed within 10 days after service of the memorandum.

If appellant does not comply with this order, the Clerk shall dismiss this appeal pursuant to Ninth Circuit Rule 42-1.

Briefing is suspended pending further order of the court.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Stephanie McMahon  
Motions Attorney/Deputy Clerk